

Office of the Attorney General's Summary of the Manufactured Homes Owners and Community Owners Act

The Manufactured Homes Owners and Community Owners Act ("MHOCOA"), 25 *Del.C.* § 7001 *et seq.*, requires landlords to provide a copy of this summary to all prospective tenants prior to renting a lot in a manufactured home community. This summary seeks to familiarize tenants and landlords with the provisions of MHOCOA and their rights and obligations under MHOCOA. This is a summary of MHOCOA as it exists on January 1, 2012. Since MHOCOA has been amended several times over its lifetime, it may be possible that certain provisions of MHOCOA will not be applicable to leases existing prior to 2012.

This is only a general summary. It does not cover all aspects of MHOCOA. For specific legal questions, please refer to the statute itself, or seek the advice of an attorney. A copy of MHOCOA can be found at:

<http://delcode.delaware.gov/title25/c070/sc01/index.shtml>.

Unless otherwise specified, section numbers listed in this summary refer to specific sections of MHOCOA in Chapter 70, Title 25 of the Delaware Code.

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Overview and Scope of MHOCOA

MHOCOA seeks to: (1) clarify and establish the law governing the rental of lots for manufactured homes; (2) clarify and establish the rights and obligations of manufactured home landlords, manufactured home tenants, and residents of manufactured home communities; and (3) to encourage landlords, tenants, and residents to maintain and improve the quality of life in manufactured home communities. § 7001(a). MHOCOA generally governs the relationship between the landlord and the tenant regarding the lot rental. § 7006(a)(12). However, if no provision of MHOCOA applies, the Residential Landlord-Tenant Code will govern. § 7002(c). MHOCOA does not apply to the rental of ground upon which a recreational vehicle is placed or the rental of ground within the category of seasonal property. § 7004.

Definitions

Certain terms utilized throughout MHOCOA are specifically defined, including: Agreement; Authority; Common Area; Community Owner/Landlord; Guest/Visitor; Hold Over; Holdover; Homeowner/Tenant; Lease/Rental Agreement; Manufactured Home; Manufactured Home Community; Notice; Premises; Quiet Enjoyment; Recreational Vehicle; Rent; Resident; Seasonal Property; Tree; Trust Fund; Utility Charge; and Utility Service. Section 7003 contains the definitions of these terms. Fee/Charge is defined in § 7008(a). Entrance and Exit fees are defined in § 7008(k).

MHOCOA Remedies Are Not Exclusive

Remedies provided by the MHOCOA are in addition to other remedies available to a landlord or a tenant. § 7006(j).

Notice

Several provisions throughout the MHOCOA require either the landlord or the tenant to provide the other with written notice. Unless otherwise specified, notice may be served on the person, by certified mail, or by other means set out in § 7024. For certain communications and notices related to security deposits, additional technical requirements are set out in § 7018(f) and (g).

Preoccupancy Considerations

Application Fee

A landlord may require a prospective tenant to pay an application fee to be used by the landlord to determine the prospective tenant's credit worthiness. The application fee may not exceed the greater of 10% of the monthly lot rent or \$50. If the fee exceeds that amount, the tenant is entitled to damages equal to double the amount demanded or charged by the landlord. If the landlord requires an application fee, the landlord must provide the prospective tenants receipts of amounts paid and keep certain records related to applications fees for a period of at least two years. § 7008(d).

Provision of Documents

Prior to renting a lot in a manufactured home community, a landlord must provide a prospective tenant with a copy of: (1) the lease; (2) the rules; (3) the standards; (4) the fee schedule; (5) the MHOCOA; and (6) this summary of the MHOCOA. § 7005. A prospective tenant must sign a receipt acknowledging delivery of these documents prior to renting a lot. § 7005. A form receipt is attached to this summary.

Rental Lot Must Conform to the Law

A rental lot must conform to applicable state, county, or municipal statutes, ordinances or regulations before a landlord may offer the lot for rent. § 7006(f). If the lot does not, the landlord may be fined not more than \$1,000. § 7006(g).

Execution of the Lease

A lease must be executed before a tenant occupies a lot. § 7006(e). However, if a tenant signs and delivers a lease to the landlord, and the landlord, without signing the lease, accepts rent from the tenant without reservation, the lease will have the same effect as if it had been signed by the landlord. § 7017(a). Likewise, if a landlord signs and tenders a lease to a tenant, and the tenant, without signing the lease, accepts possession of the lot and pays rent without reservation, the lease will have the same effect as if it had been signed by the tenant. § 7017(b). However, any unsigned lease for a term longer than 1 year, will only create a 1 year term lease. § 7017(c).

Security Deposits

A landlord must immediately place all security deposits in a federally-insured financial institution with a deposit-taking office in Delaware. § 7018(b)(1) and (2). If the landlord fails to do so, the landlord forfeits the security deposit to the tenant and must provide the security deposit to the tenant within 20 days. § 7018(f)(2). If the landlord fails to do so, the amount owed to the tenant will double. § 7018(f)(2). Section 7018(g) provides the technical requirements related to communications related to security deposits.

Pet Deposits

Generally, pet deposits are treated like non-pet security deposits. § 7018(h). However, a landlord may not require a pet security deposit if the pet is a certified and trained support animal for a disabled resident of the home. § 7018(h)(4).

Failure to Meet Standards

A landlord may refuse to allow the placement of a manufactured home on a lot if the home does not meet the written community standards. § 7020(b). Written community standards are discussed in more detail in another section of this summary.

The Lease

The Lease Summary

The lease must contain a summary containing a brief description of:

- the manufactured home;
- the rented lot;
- the rental amount;
- the term of the lease;
- the landlord's mailing address;
- the tenant's mailing address;
- fees;
- the security deposit;
- information regarding rent adjustment; and
- community status and method of notice.

In addition, the summary must contain the amount of rent charged for the lot for the 3 most recent past years. If this information is not known after a diligent search, a statement to that effect must be included. § 7006(a)(10).

Basic Information Required to be in the Lease.

MHOCOA requires certain basic information to be in all leases. This information includes:

- the identify and location of the rented lot;
- the total amount of annual rent;
- the amount of rent due on each payment;
- the payment date;
- the amount and conditions of any late payment fee;
- a listing of each fee in a manner that identifies the service to be provided for the fee;
- the name and address of the person authorized to receive notices and accept service on the landlord's behalf;
- the name and location of the landlord's security-deposit account;
- the grounds for lease termination as described in the MHOCOA; and
- a reference to MHOCOA as the law governing the relationship between the landlord and the tenant regarding the lot rental. § 7006(a) and § 7018(b)(1).

Specific Provisions Required to be in a Lease

MHOCOA requires specific provisions to be in the lease with respect to the landlord's and tenant's duties. § 7006(a)(13) and § 7006(a)(14). The Delaware Supreme Court has ruled these provisions must track or accurately paraphrase the language of the statute. If the landlord fails to include these provisions in the lease, remedies may include: mailing corrective addendums; actual damages; court costs; and 3 months' rent. § 7006(h) and (i).

Provisions Related to the Landlord's Duties

The specific provisions MHOCOA requires to be in the lease with respect to the landlord's duties relate to:

- | | |
|--|-----------------|
| • Standing Water; | § 7006(a)(13)a. |
| • The Health and Safety of Residents, Visitors, and Guests; | § 7006(a)(13)b. |
| • Lot Identification; | § 7006(a)(13)c. |

- **Weeds or Plant Growth which are Noxious;** § 7006(a)(13)d.
- **Infestations in Common Areas;** § 7006(a)(13)e.
- **Utility or Service Problems;** § 7006(a)(13)f.
- **Septic System Maintenance;** § 7006(a)(13)g.
- **The Tenant's Right to Privacy and the Landlord's Right of Entry;** § 7006(a)(13)h.
- **Road Maintenance;** § 7006(a)(13)i.
- **Building Code Compliance;** § 7006(a)(13)j.
- **Freedom of Choice in Connection with the Purchase of Goods and Services;** § 7006(a)(13)k.
and
- **Tree Maintenance.** § 7006(a)(13)l.

Provisions related to the Tenant's Duties

The specific provisions MHOCOA requires to be in the lease with respect to the tenant's duties relate to the:

- **Condition of the Exterior of the Home and the Lot;** § 7006(a)(14)a.
- **Storage of Certain Items on the Lot;** § 7006(a)(14)b.
- **Disposal of Waste Materials;** § 7006(a)(14)c.
- **Rules; and** § 7006(a)(14)d.
- **Standards.** § 7006(a)(14)e.

The Service Rider

If the landlord provides and makes available to the tenant a utility, facility, or service to the tenant, the lease must contain a service rider describing each utility, facility and/or service. The rider must indicate the financial responsibility of the tenant and the landlord for installation and maintenance of the utility, facility, or service. The rider must also state the related fees or charges that may be imposed upon the tenant by the landlord in connection with the utility, facility and or service. § 7006(a)(9).

Prohibited Lease Provisions

The MHOCOA sets out specific types of provisions which are not allowed in the lease. § 7006(b). These prohibited provisions relate to:

- **A provision Allowing a Person to Confess Judgment on a Claim arising out of the Lease** § 7006(b)(1).
- **Waivers of Rights/Remedies provided by Law, including:** § 7006(b)(2).
 - **Waivers of the Right to Jury Trial;** § 7006(b)(3).
 - **Possession without Legal Process;** § 7006(b)(4).
 - **Waivers of Certain Termination Rights;** § 7006(b)(11).
- **A Late Fee without a 5 Day Grace Period;** § 7006(b)(5).
- **A Late Fee, Based on a Monthly Payment, in Excess of the Greater of \$25 or 5% of the Payment;** § 7006(b)(6).
- **Allowing a Security Deposit in Excess of 1 Month's Rent;** § 7006(b)(7).
- **Allowing an Unlawful Retention of a Security Deposit;** § 7006(b)(7).

- **Collecting a Deposit for a Government Mandated Charge in Excess of One Normal Billing Period;** § 7006(b)(8).
- **Retaining a Deposit for a Government Mandated Charge at the Termination of the Lease if the Tenant has Paid the Charge;** § 7006(b)(8).
- **Restricting the Tenant's Lease Termination Rights in Connection with Commuting Changes Caused by the Tenant's Current Employment;** § 7006(b)(9).
- **Restricting the Tenant's Lease Termination Rights in Connection with Armed Forces Reassignment Orders;** § 7006(b)(9).
- **Certain Liability Waivers;** § 7006(b)(10).
- **Certain Indemnification Agreements;** § 7006(b)(10).
- **Prohibitions of "For Sale" Signs;** § 7006(b)(12).
- **Unreasonable Restrictions of Choice in the Tenant's Purchases of Goods & Services;** § 7006(b)(13).
- **Recovery of Attorney's Fees;** § 7006(b)(14).
- **Conflicts with Federal, State or Local Law;** § 7006(b)(15).
- **Use of Satellite Dishes or Television Antennas that Conflict with FCC Regulations;** § 7006(b)(18).
- **Requirements Related to the Sale or Transfer of a Home to a Landlord Including:**
 - **Option for the Landlord to Purchase;** § 7006(b)(20).
 - **Right of First Refusal for the Landlord to Purchase;** § 7006(b)(16)a.
 - **Requirements Related to Buying a Home from the Landlord;** § 7006(b)(16)b.
 - **Requirements Related to Utilizing the Landlord to Sell the Home;** § 7006(b)(16)c.
 - **Requiring the Tenant to Provide the Landlord Keys;** § 7006(b)(17).
 - **Automatic Rent Deductions; and** § 7006(b)(19).
 - **Limiting Liquidated Damages for the Tenant.** § 7006(b)(21).

These provisions are unenforceable. § 7001(b). If the Landlord includes these provisions in a lease, remedies may include: mailing corrective addendums; actual damages and court costs; and 3 month's rent. §7006(c) and (d).

Lease Default Terms

Unless the parties otherwise agree in writing, the following terms will apply to each lease.

Term of the Lease

Each lease will last 1 year. § 7007(a).

Payment Terms

Rent payments must be made monthly in equal dollar amounts (total annual rent divided by twelve). § 7006(3) and § 7015A.

Tenant Non-renewal Notice

The tenant must provide the landlord with 60 days written notice prior to the expiration of the lease term. § 7007(b)(1).

Provisions only Permitted at the Request of the Tenant and Agreed to by the Landlord

The following types of provisions in a lease are only permitted if the tenant requests the provision and the landlord agrees to it.

Non-monthly Rent Payments

The payment of rent in one lump sum, semi-annual, or quarterly. §§ 7006(a)(3)a. and 7015A. However, a landlord may offer a discount as an incentive for a tenant to pay annually, semi-annually or quarterly provided it is made clear that the homeowners are free to pay monthly. § 7015A.

Excessive Security Deposit

Security deposits (including pet deposits) in an amount exceeding one month's rent. §§ 7006(b)(7), 7018(a)(2) and 7018(h)(3).

The Rules

Generally

A landlord may promulgate reasonable written rules concerning the occupancy and use of the premises, the use of the landlord's property, and the behavior of tenants, residents, guests and visitors. § 7019.

Rules must relate to:

- Promoting the health, safety, or welfare of tenants, residents, guests or visitors;
- Promoting the residents' quiet enjoyment;
- Preserving the property values of tenants and/or landlords;
- Promoting the orderly and efficient operation of the manufactured home community; or
- Preserving the tenants' and/or landlords' property from abuse. § 7019(a).

Enforcement

The lease is required to have a term requiring the tenant to abide by all reasonable written rules concerning the use, occupation and the maintenance of the premises. § 7006(a)(14)(d). Repeated instances of non-compliance with any rule that is material to the lease may permit the landlord to terminate the lease. § 7010A(c). A landlord may not arbitrarily or capriciously enforce a rule. § 7019(b).

The Standards

Generally

A landlord may adopt reasonable written standards regarding the size, age, quality, appearance, construction, materials and safety features for a newly located home. § 7020(a).

Standards Regarding Resale or Transfer of Title of a Home

A landlord may adopt reasonable written standards regarding the resale or transfer of title of a home that will remain in the community. § 7020(c)(1). These standards must relate only to appearance, maintenance, safety and compliance with housing, building or health codes, and the 1976 HUD code. § 7020(c)(1). Age may not be the exclusive or dominant factor. § 7020(c)(1). The landlord has 10 days after a written request by the tenant to reevaluate a home that previously did not meet these standards. § 7020(c)(2).

Enforcement of Standards

The lease requires the tenant follow all reasonably written standards. § 7006(a)(14)(e). Failure to comply may result in the termination of the tenant's lease. § 7010A(a)(5). The landlord may not arbitrarily or capriciously enforce a standard. § 7020(d).

Fees & Fee Schedule

A fee schedule must be attached to the lease. § 7008(b). The fee schedule must clearly disclose all fees. The lease must list each fee in a manner that identifies the service to be provided for the fee. § 7006(a)(6). A fee is a monetary or obligation other than lot rent that is assessed by a landlord to a tenant for: (1) a service furnished to the tenant; or (2) an expense incurred as a direct result of the tenant's use of the premises; or (3) an expense incurred as a direct result of the tenant's acts or omissions. § 7008(a).

Fee's Related to a Tenant's Failure to Perform a Duty

Prior to assessing a fee for the tenant's failure to perform a duty arising under the lease, the landlord must provide the tenant with notice of the failure to perform and allow the tenant 5 days after the notice to remedy or correct the failure to perform. § 7008(c).

Pass Through Utility Fees

A landlord may assess the tenant a fee when the landlord pays a third party utility charge for which the tenant is responsible for paying, but has failed to pay. This pass-through utility fee may include third party late fees as well as a third-party payment fee for the landlord not to exceed the greater of \$25 or 5% of the payment the landlord makes to the third-party. § 7008(e).

Late Fee

If the lease provides for a late fee, the landlord may assess one provided the rent has not been paid within 5 days of the due date in the lease. § 7008(f). If the late fee is based on a monthly payment, the late fee may not exceed the greater of 5% of the rental payment or \$25. § 7006(b)(6).

Optional User Fees

The landlord may access optional user fees for requested use of a facility or service such as, but not limited to, a swimming pool, marine facilities, and tennis courts. § 7008(g). The amount of the optional-user fee must be reasonably related to the cost of providing the facility or service upon which the fee is based. § 7008(h).

Rates for Utilities Provided by the Landlord

Rates for utilities charged by a landlord may not exceed the utility's retail consumer rate. § 7008(j).

Prohibited Fees

A landlord may not assess an entrance or an exit fee. § 7008(k).

Automatic Lease Renewal & Changes to the Lease, Rules, Standards and Fees

Upon the expiration of the term of a lease, the landlord must automatically renew the lease with the same provisions as the original agreement. § 7007(b). However, the MHOCOA does provide certain ways to change provisions of the lease, as well as the rules, standards, and fees. These are listed below.

Mutual Changes

The landlord and tenant may agree to modify the lease. § 7007(b).

Unilateral Changes by the Landlord

Terms Related to the Amount and Payment of Rent

In the case of a renewing lease, the landlord may modify provisions related to the amount and payment of rent. § 7007(b). The rent history provided to the tenant in the lease summary may not be used as a predictor of future rents, nor may it be used against the landlord in anyway. § 7006(a)(10).

Tenant Protections Related to Rental Increases

Notice

A landlord may not increase the rent without providing the tenant a minimum of 60 days written notice. § 7021.

Frequency

A landlord may not increase the rent more than once during a 12 month period. § 7021.

Lot Rental Assistance Program

If the community has 26 or more lots, a tenant may be eligible for lot rental assistance from the landlord. § 7021A. The specific eligibility requirements are set out in § 7021A.

Discontinuation of Utilities, Facilities, or Services

A landlord may discontinue utilities, facilities, or services. § 7008(l)(1).

Tenant Protections Related to Discontinuation of Utilities, Facilities, or Services

Notice

The landlord must provide no less than 60 days notice to affected tenants prior to the discontinuance of any utility, facility or service and include an explanation of the discontinuance and the reduction in the direct operating cost, if any, associated with the discontinuance. § 7006(l)(1).

Monetary Adjustment

The landlord must adjust the tenant's rent or fee by deducting the landlord's direct operating costs of providing the discontinued utility, facility or service. The direct operating costs as determined by an independent public accountant or certified public accountant paid for by the landlord is binding on both the landlord and the tenants. § 7006(l).

Committee Meeting

The tenants' have ten days to form a committee after the landlord issues notice related to the discontinuance. § 7008(l). The committee may not exceed 5 members. § 7008(l). The landlord and the committee must meet at a mutually convenient time and place to discuss the discontinuance. § 7008(l). At the meeting the landlord must disclose and explain all material factors for the proposed discontinuance including supporting documentation. § 7008(l).

Changes to the Location of the Security Deposit

The landlord may change the location of the security deposit account. § 7018(b). However, the landlord must notify each tenant of the new location within 30 days of the change. § 7018(b). The technical requirements related to communications and notices related to security deposits are set out in § 7018(f)(g).

Changes to the Amount of the Security Deposit

The landlord may only increase the security deposit if allowed by the lease and the increase is commensurate with an increase in the rent. § 7019(i). Section 7019(i) regulates the payment of any increase in the security deposit if the increase exceeds 10% of one month's rent.

The Rules

A landlord may amend a rule at anytime. § 7019(c).

Tenant Protections Related to Rule Changes

Notice

A rule is not effective until 60 days after the landlord delivers written notice to the tenant, or later if specified in the rule. § 7019(c).

Committee Meeting

Within 10 days of receiving notice of the amended rule, the tenants have the ability to choose a committee, not exceeding 5 members, who shall meet with the landlord to discuss the amended rule. § 7019(c). At the meeting, the landlord is obligated to disclose and explain all material factors and present any supporting documentation for the amended rule. § 7019(c).

The Standards

A landlord may amend or establish new standards at any time.

Tenant Protections Related to Standard Changes

Notice

An amended or new standard is not effective until 60 days after the landlord delivers written notice to the tenant, or later if specified in the standard. § 7020(e).

Committee Meeting

Within 10 days of receiving notice of the amended or new standard, the tenants have the ability to choose a committee, not exceeding 5 members, who shall meet with the landlord to discuss the amended rule. § 7020(e). At the meeting, the landlord is obligated to disclose and explain all material factors and present any supporting documentation for the amended rule. § 7020(e).

Time to Comply

A tenant has 9 years to comply with a newly promulgated non-resale related standard. § 7020(b). The landlord may shorten this compliance period if the change to the home is necessary to protect life or for other safety reasons. § 7020(b).

Fees

A landlord may increase existing fees or add a new fee. § 7008(i).

Tenant Protections for New or Increased Fees

Notice

The landlord must provide the tenant with at least 60 days notice prior to the effective date of the increase or addition, otherwise the fee is unenforceable. § 7008(i). No notice is required for utility rate adjustments. § 7008(j).

Frequency

The landlord may not increase a fee more than once during any 12 month period. § 7008(i). However, the landlord may adjust the utility rate on a monthly basis. § 7008(j).

Late Fees

A late fee may not be added unless allowed under the lease. § 7008(f)(2).

Miscellaneous Prohibited Landlord/Tenant Conduct

Use of a Community Center

If there is a community center available for use by tenants, the landlord must allow a tenant's association or similar tenant's group to use the center for purposes related to the tenants' rights and obligations in the community. The landlord may not charge such group any more than is charged to tenants for the ordinary use of the community center. The landlord must honor a request by such a

group within 14 days. The tenants must abide by all existing rules established for the community center. §7008(m).

Misrepresentation with Intent to Deceive the Tenant (Bad Faith Change in Use)

The landlord may not terminate or refuse to renew a lease for the purpose of changing the use of the land in bad faith. § 7010(b) and (c). Providing the termination notice related to change in use in such a case may subject the landlord to: a cease and desist order, penalties up to \$250 per violation (doubled for tenants over 65 years), restitution, attorney's fees, and costs. § 7010.

Placing Undue Pressure on a Tenant to Sell the Home to the Landlord

A landlord may not unduly influence or pressure a tenant to sell their home to the landlord. However, raising rent to a level within the range of market lot rents is generally not undue influence. The tenant may file a private right of action if the landlord did exert undue influence or pressure. A successful tenant may recover up to 3 times the actual damages and reasonable court costs. The landlord may also lose its right to buy a tenant's home for 1 year. § 7022(c)(6).

Retaliatory Acts

Retaliatory acts by landlords are not allowed after:

- a tenant complains in good faith to the landlord or an enforcement agency about a code violation affecting the community;
- an enforcement authority institutes an action against the landlord based on the tenant's complaint;
- the tenant forms or participates in a tenant's association;
- the tenant files a lawsuit against the landlord. § 7023(a) & (b).

Prohibited retaliatory acts include:

- terminating the tenant's lease;
- filing a lawsuit for summary possession;
- causing a tenant to move involuntarily;
- decreasing services to which a tenant is entitled under a lease; or
- an attempt to do any of the preceding acts. § 2523(b).

If the landlord engaged in a retaliatory act, then the landlord may be liable for the greater of treble damages or 3 times the amount of monthly rent and costs of the legal action, unless an affirmative defense is available to the landlord. § 7023(d) and (e).

Tenant Lease Terminations/Non-renewals

Landlord's Non-Compliance or Impairment of Tenant's Enjoyment

The tenant may terminate the lease and vacate the lot upon notice to the landlord:

- During the first month of the lease, if a landlord fails to substantially comply with the provisions of a lease, or if there is a material non-compliance with MHOCOA or related laws. This right includes the

right to vacate, with no obligation to pay rent after the date of vacating. This right to terminate is retained if the tenant stays in possession as a result of relying on the landlord's promise to correct the non-compliance. § 7009(a).

- During the first 18 months of the lease, if the landlord induces the tenant to enter the lease by intentionally misrepresenting a material fact regarding the community, the services provided by the landlord, or a provision of a lease in an advertisement. § 7009(e).
- If a condition substantially deprives the tenant of the benefit and enjoyment of lease and if the landlord does not remedy the condition within 15 days after the tenant mails written notice. This right includes the right to vacate, with no obligation to pay rent after the date of vacating. No notice is required if the premises is uninhabitable or an imminent threat to health, safety or welfare exists. § 7009(b).

The tenant may not exercise these rights of termination if the non-compliance is caused by a lack of due care by the tenant or a resident or guest in the tenant's home. § 7009(c). The tenant may recover certain damages, related to the non-compliance if it was caused by the landlord. § 7009(d).

Non-renewal of the Lease

Leases are generally automatically renewed at the end of the lease term. However, either the tenant or the landlord may notify the other prior to the expiration of the lease term (default notice is a minimum of 60 days) that the agreement will not be renewed. The tenant may choose not to renew for any reason. § 7007(b)(1). As discussed below, the landlord may only do so for due cause. § 7007(b)(2).

Change in Location of Employment

The tenant may terminate the lease if a change in the location of the tenant's current job increases the tenant's commute by 30 miles or more. The tenant generally must provide 30 days advance notice to the landlord. However, if the relocation is the result of military reassignment orders that do not allow 30 days notice, the time allowed for notice may be shorter. § 7006(b)(9).

Transfer of Home that Will Remain in the Community

The tenant may terminate a lease if the landlord accepts a buyer of the tenant's home as a prospective tenant. § 7022(d)(2). Termination is effective upon execution of the new lease. § 7022(d)(2).

Landlord Lease Terminations/Non-renewals

A landlord may only terminate or choose not to renew a lease for due cause. § 7010(a). Terminations must be done by providing written notice. §§ 7010(b), 7010A(a),(f), and (g). For non-renewals, the landlord must provide the tenant with written notice that the lease will not be renewed for due cause at least 60 days prior to the expiration of the lease term. §§ 7007(b)(2) and 7010(a).

Due Cause: Change in Use of the Land

Due cause includes an intention by the landlord to change the use of the land or portion of the land of the manufactured home community. §§ 7010(a)(1) and 7010(b).

Tenant Protections Related to a Change in Use of the Land

Notice

The landlord must provide all affected tenants with at least a 1-year termination or non-renewal notice. § 7010(b)(1). The notice must inform the affected tenants of the need to secure another location for their manufactured homes. § 7010(b)(1). This notice must be in writing. The landlord must post the written notice on each affected tenant's home and send by certified mail, return receipt requested, a copy of the written notice to each affected tenant. § 7010 (b)(2).

Relocation Plan

With the notice, the landlord must also provide a relocation plan to each affected tenant. Among other things, the relocation plan must contain certain information related to tenants options going forward including specific information related to: other manufactured home communities within a 25 miles; housing for tenants with disabilities and older tenants within a 25 mile radius; government and community agencies available to assist tenants with disabilities and older tenants; a description of relocation and abandonment procedures; a preliminary indication of whether a tenant's home can or cannot be relocated; and a copy of Section 7010. § 7010(b)(3). The landlord must also submit a copy of the plan to the Authority. § 7010(b)(4). The relocation plan must be updated and distributed to tenants and the Authority quarterly. The failure to do so will extend the tenant's lease by 1 month for each omitted quarterly update. § 7010(b)(5).

Compliance with Certain Laws Related to Older Tenants and Tenants with Disabilities.

It is a violation of MHOCOA for the landlord to fail to comply with all federal, state and local laws relating to older tenants and tenants with disabilities during the relocation process. § 7010(b)(6).

No Increases in Lot Rent.

The landlord may not increase the lot rental amount of an affected tenant after giving notice of a change in use. § 7010(b)(1).

The Delaware Manufactured Home Relocation Trust Fund

MHOCOA establishes the Delaware Manufactured Home Relocation Trust Fund which is set up to provide monetary assistance for tenants who are required to relocate due to a change in use or conversion of the community to a manufactured home condominium community or manufactured home cooperative community. § 7012(b). The amount, requirements, and restrictions related to the financial assistance tenants may receive is set out in §§ 7013-15. This trust fund also provides financial assistance to community owners with the removal and/or disposal of nonrelocatable or abandoned manufactured homes. The amount, requirements, and restrictions related to the financial assistance community owners may received is set out in § 7014.

Due Cause: Conduct of Tenant or Resident Causing Immediate Irreparable Harm

Due cause includes non-compliance with the lease or MHOCOA that involves conduct of the tenant or of a resident that caused, is causing, or threatens to cause, immediate and irreparable harm to any person or property in the community. § 7010A(a)(1). The evidence must be clear and convincing unless the conduct resulted in immediate and irreparable harm and the tenant or resident's conduct resulted in a

conviction of a crime or adjudication of delinquency. § 7010A(a)(1) & (2). Termination may be immediate upon written notice. § 7010A(a). The notice must specify the reasons for such action in sufficient detail so that the dates, places and circumstances concerning the termination are clear. § 7010(f). Recital of the language of the statute is insufficient. § 7010(f).

Due Cause: Material Misrepresentations on Rental Application

Due cause includes a material misrepresentation on the tenant's application, if the truth were known, would have resulted in the landlord's denial of the application. § 7010A(a)(3). Evidence of this conduct must be clear and convincing. § 7010A(a)(3). Termination may be immediate upon written notice. § 7010A(a). The notice must specify the reasons for such action in sufficient detail so that the dates, places and circumstances concerning the termination are clear. § 7010(f). Recital of the language of the statute is insufficient. § 7010(f).

Due Cause: Selling or Transferring Title without Proper Notice

Due cause includes the failure of the tenant to provide the landlord with the proper notice before selling or transferring title of the home which the buyer or transferee intends to retain in the community. §§ 7010A(a)(4) & 7022(c). Termination may be immediate upon written notice. § 7010A(a). The notice must specify the reasons for such action in sufficient detail so that the dates, places and circumstances concerning the termination are clear. § 7010(f). Recital of the language of the statute is insufficient. § 7010(f).

Due Cause: Failing to Bring Home into Compliance with Standards

Due cause includes the failure of a tenant to bring the home into compliance with the written standards. § 7010A(a)(5). Termination may be immediate upon written notice. § 7010A(a). The notice must specify the reasons for such action in sufficient detail so that the dates, places and circumstances concerning the termination are clear. § 7010(f). Recital of the language of the statute is insufficient. § 7010(f).

Due Cause: Failure to Pay Rent or Other Fees

Due cause includes the tenants failure to pay rent or any fees by the 5th day after the due date or grace period stated in the lease. §§ 7010A(b)(3) and § 7008(f)(j). This includes the tenant's failure to pay the tenant's portion of the Delaware Manufactured Home Relocation Authority Assessment. § 7012(f)(2). Failure to pay an optional-user fee for requested use of a facility or service may not be a basis for termination of the lease unless there is continued use of the requested facility or service without paying. § 7008(g). However, MHCOA provides procedural safeguards for the tenant before the landlord may terminate the lease. Before terminating the lease, the landlord must first demand payment in writing and state that unless the required payment is made within 7 days from the date of mailing or personal service, the lease will be terminated. § 7010A(b)(3). If the landlord sends the tenant 4 of these demand letters within 12 consecutive payment periods, the landlord may terminate the lease provided the landlord notifies the tenant in the 3rd demand that a subsequent incidence of non-compliance may result in either the immediate termination of the lease or the non-renewal of the lease at its expiration. § 7010A(c)(1) and (d). Only 2 demands are necessary for lease termination if both demands are based

on the tenant's failure to reimburse the landlord for a utility fee. § 7010A(C)(2). The 4 or 2 demands may overlap more than one lease period. § 7010A(c).

Due Cause: Conduct which Results in the Disruption of the Rights of Others Entitled to the Quiet Enjoyment of the Premises

Due cause includes lease or MHOCOA violations by the tenant, resident, or guests which results in the disruption of the rights of others entitled to the quiet enjoyment of the premises. § 7010A(b)(1). Before terminating the lease, the landlord must notify the tenant in writing, specifying the basis of the conduct, and advise the tenant to cause the conduct to cease and not allow its repetition. § 7010A(b)(1). The notice must advise the tenant that if substantially the same conduct reoccurs within the next 6 months the landlord may immediately terminate the lease and bring an action for summary possession. § 7010A(b)(1).

Due Cause: Non-compliance with the Lease or MHOCOA Based on Condition on or of the Premises

Due cause includes lease or MHOCOA violations based on a condition on or of the premises. § 7010A(b)(2). Before terminating the lease, the landlord must notify the tenant in writing, specifying the condition constituting the non-compliance and allow the tenant 12 days from the date of mailing or service to remedy the non-compliance. § 7010A(b)(2). If the tenant remains in non-compliance after the 12 day period the landlord may immediately terminate the lease and bring an action for summary possession. § 7010A(b)(2).

Due Cause: Tendering Bad Checks to the Landlord

Due cause includes 2 separate occasions within 12 consecutive payment periods of the tenant tendering to the landlord a check or bank draft which is dishonored by a financial institution unless the financial institution made a mistake. § 7010A(c)(3).

Due Cause: Combination of Four Separate Incidents

Due cause includes any combination of 4 separate incidents of non-compliance with the lease or MHOCOA even when corrected by the tenant based on: conduct which results in the disruption of the rights of others entitled to the quiet enjoyment of the premises; failure to pay rent or other fees; non-compliance with the lease or MHOCOA based on a condition on or of the premises; tendering bad checks to the landlord. § 7010A(c)(5).

Sale of the Manufactured Home or the Community

A tenant may desire to sell, convey, or transfer their manufactured home to a buyer who intends to keep the home in the community. Likewise, a landlord may desire to sell, transfer, or convey all or part of a manufactured home community. MHOCOA provides various protections for the tenant and landlord in both of these situations.

Sale of Manufactured Home

Protections for the Selling Tenant

Tenant's Option to Transfer Existing Lease

When a tenant decides to sell, convey, or transfer title of a manufactured home, the tenant may assign the tenant's existing lease to the buyer. § 7022(d). In the alternative, the buyer may negotiate a new lease with the landlord. § 7022(d)(2). The tenant's election to assign or negotiate is at the tenant's sole discretion. § 7022(d).

Landlord Protections

Notice

A tenant who plans to sell, convey, transfer title to the home to a buyer or transferee who intends to remain in the community must provide the landlord with 3 weeks written notice prior to the scheduled sale, conveyance, or transfer of title. § 7022(c). The notice must provide the name and address of the prospective buyer and must clearly indicate the agreed sale price and terms. § 7022(c).

Landlord's Right to Purchase

A landlord has the right to purchase the home for 1% higher than the contract price and under the same terms and conditions. § 7022(c). There are some circumstances where the landlord does not have the right to purchase the home. § 7022(c)(5).

Limitations on Tenant's Right to Transfer

A selling tenant may not transfer the existing lease if: (1) the home does not qualify under the standards relating to resale and retention; or (2) the landlord does not accept the new buyer or transferee as a tenant. § 7022(b). Acceptance or rejection of transferee must be on the same basis by which the landlord accepts or rejects any prospective tenant and any rejection must give the rejected prospective tenant a written statement that explains the cause of the rejection. § 7022(b).

Sale of a Home Not Meeting Community Standards

A tenant purchasing a home existing in the community that does not meet the standards has 3 years to bring the home into compliance with the standards. § 7022(e). The landlord may shorten this compliance period if the change to the home is necessary to protect life or for other safety reasons. § 7022(e). The transferee-tenant, prior to the sale, must deposit 120% of the estimated costs of the changes necessary to meet the standards into an account jointly controlled by the landlord and the transferee. § 7022(e). Once work begins, it must be completed within a reasonable time. § 7022(e).

Sale of Manufactured Home Community & Associations Right of First Offer

A landlord may decide to sell, transfer, or convey all or part of a manufactured home community. § 7026. The registered homeowner's association for the community has a right of first offer to purchase all or part of the community. Notice requirements and the complex procedure for executing the right are set out in Section 7026.

Termination Considerations

Landlord's Remedy if the Tenant Remains in Possession after the Lease Termination

If a tenant continues in possession of a lot after the lease is terminated and a court of competent jurisdiction determines the landlord was entitled to possession, then landlord is entitled to double rent if the tenant held over in bad faith. § 7016. If the tenant did not hold over in bad faith, then the tenant is only liable for rent in the amount of the lease. § 7016. The procedure for calculating these amounts is set out in § 7016.

Security Deposits

Landlord's Permissible Uses of a Security Deposit

A landlord may use a security deposit to pay for: (1) actual damages which exceed normal wear and tear to the landlord's property and which were caused by the tenant; (2) rent, rent arrearage, fees, charges, Trust Fund Assessments and other moneys due and owed to the landlord by the tenant; and (3) all reasonable expenses incurred in renovating and re-renting the landlord's property caused by the premature termination of the lease by the tenant, except for the terminations pursuant to § 7009. § 7018(c).

Return of a Security Deposit

Within 20 days after the expiration or termination of the lease, the landlord must provide the tenant with an itemized list of damages and the estimated cost of repairs as well as any remaining security deposit. § 7018(d) & (e). The failure of the landlord to provide an itemized list of damages is treated as an acknowledgement by the landlord that no damage is due. § 7018(d). The tenant has 10 days to object to the damages specified by the landlord. § 7018(d). A tenant may request the landlord to provide the tenant with the location of the security deposit. If the landlord fails to disclose the location to a written request by the tenant within 20 days of the request, the landlord forfeits the security deposit to the tenant. § 7018(f)(2). Failure to provide the security deposit to a tenant within 20 days after forfeiture entitles the tenant to double the amount of the security deposit. § 7018(f)(2). The tenant has one year from the expiration or termination of the lease to make a claim in writing for the return of the security deposit. § 7018(g). Technical requirements related to communications and notices related to security deposits are set out in § 7018(g).

Return of a Pet Deposit

Generally, pet deposits are treated like non-pet security deposits. § 7018(h). To the extent the damages are caused by pets and there is a pet deposit, the damages must be deducted from the pet deposit first, prior to deducting from the non-pet security deposit. § 7018(h)(1). However, a landlord may deduct non-pet related damages from the pet deposit even if the damages are not related to damages caused by a pet if the non-pet security deposit is insufficient to cover those damages. § 7018(h)(2).

Disputes

Legal Actions

Tenants and landlords may file legal actions to enforce their rights and obligations under MHOCOA. § 7002(a).

Summary Proceedings

Summary proceedings to recover the possession of a rented lot may be maintained in the Justice of the Peace Court. § 7002(b). Additional information regarding these proceedings can be found on the Justice of the Peace's website at: <http://courts.delaware.gov/Help/LandlordTenant/index.stm>.

Alternative Dispute Resolution

The Delaware Manufactured Housing Alternative Dispute Resolution Act sets out an alternative method a tenant and a landlord may use to resolve disputes. § 7001A. All parties to the dispute must agree to use this process. § 7001A(d) & (e).

Consumer Protection Unit of the Attorney General's Office

The Consumer Protection Unit of the Attorney General's Office has enforcement authority over violations of MHOCOA and tenants are encouraged to file a complaint if their landlord has committed a violation. § 7025. Tenants may obtain a copy of the Consumer Protection Unit's Complaint form at <http://www.attorneygeneral.delaware.gov/media/pdf/complaintform.pdf>. The Consumer Protection Unit does not provide tenants with private representation and does not handle matters involving lease disputes. However, since the Consumer Protection Unit may take enforcement action if a landlord engages in a pattern or practice of violating the lease terms required by MHOCOA, a tenant should file a complaint, if that is the case. The Consumer Protection Unit will retain a copy of the complaint for its files to determine the likelihood the landlord may be engaging in a pattern or practice of similar violations.

Section 7005 Receipt

Section 7005 of Chapter 70 of Title 25 of the Delaware Code requires a landlord to provide a prospective tenant with a copy the lease, rules, standards, fee schedule of the manufactured home community, a copy of Chapter 70, and a copy of the Office of the Attorney General's Summary of Chapter 70 before renting a lot in a manufactured in a manufactured home community to the prospective tenant. The prospective tenant must acknowledge delivery by signing a receipt. The Consumer Protection Unit of the Attorney General's Office is providing this form receipt as a courtesy to landlords and prospective tenants. The landlord should retain a copy of this receipt.

I/We _____ hereby acknowledge receiving
Prospective Tenant(s) ("PT")

the following documents from _____ on _____ :
Landlord Date

- A copy of the written lease;
- A copy of the community rules;
- A copy of the community standards;
- A copy of the fee schedule;
- A copy of Chapter 70 of Title 25 of the Delaware Code; and
- A copy of the Attorney General's Summary of Chapter 70.

PT's Initials

PT's Initials

PT's' Initials

PT's' Initials

PT's' Initials

PT's' Initials

PT's Signature

Date

PT's Signature

Date